IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 24559 of 2004

Between:

St.Mary A.A.MM. High School, Machavaram, Krishna District, Rep. by its Correspondent Sri B. Bhathi Babu.

..... PETITIONER

AND

1. State of Andhra Pradesh, Rep. by its Secretary, School Education, Secretariat Buildings, Hyderabad.
2. Commissioner & Director of School Education, A.P. Saifabad, Hyderabad.
3. The Regional Joint Director of School Education, at Kakinada.
4. The District Educational Officer, Krishna District at Machilipatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more in the nature of a writ of mandamus declaring the action of the respondents in seeking to stop the process of selection and recruitment of the aided posts in the petitioner institution despite the permission granted by the authorities for the process of selection and advertisement was already given, as being arbitrary and illegal, violative of Article 14 of the Constitution of India and issue consequential direction to the respondents to permit the petitioner management to go ahead with the process of selection/recruitment to the aided posts in the petitioner institution and release grant in favour of the recruitees.

Counsel for the Petitioner:MR.CH.SAMSON BABU

Counsel for the Respondent Nos.1 to 4: GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following :

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ORDER:

The petitioner seeks a writ of mandamus declaring the action of the respondents in seeking to stop the process of selection and recruitment to the aided posts in the petitioner Institution despite the permission granted by the authorities as illegal and arbitrary.

The petitioner states that it was admitted to grant in aid from the date of its establishment in the year 1946 and it has been running a full-fledged high school. It is stated that two posts of teaching staff and one post of non-teaching staff fell vacant in the year 2003 and so as to fill up the said vacancies, the petitioner-Institution has sent proposals to the District Educational Officer on 15.09.2003. The District Educational Officer in turn has referred the matter to the regional Joint Director, Kakinada on 07.02.2004. On the basis of the same the Regional Joint Director, vide letter dated 07.05.2004 permitted the petitioner to fill up the vacant posts in terms of the provisions of G.O.Ms.No.1 dated 01.01.1994. The said order was communicated to the petitioner by the proceedings of the District Educational Officer dated 09.06.2004. Consequently the petitioner has issued an advertisement in Andhra Bhoomi as well as in Deccan Chronical and also notified in the employment exchange calling for applications from the eligible candidates for the said posts. While so, the District Educational Officer, instead of sending the list of the subject experts and fixing up date for conducting interviews, has informed the petitioner that in view of the general ban on recruitment the petitioner cannot go ahead with the process of selection. The said action of the respondents is under challenge in this writ petition.

Heard learned counsel for the petitioner and the learned Government Pleader for School Education appearing for the respondents.

Learned counsel for the petitioner primarily contended that the general ban imposed by the Government under Memo dated 20.10.2004 cannot be made applicable to the case on hand since the competent authority has accorded necessary permission to it to fill up the posts much prior to the ban imposed under the Memo dated 20.10.2004. The learned counsel in support of his contention has relied upon a decision of this

Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of memo dated 20.10.2004, held that in the Memo dated 20.10.2004 though it is stated that no new posts of grant in aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20.10.2004.

On a perusal of the said order, I am of the view that the ratio laid down in the said decision squarely applies to the case on hand, since admittedly in the case on hand the Regional Joint Director has granted necessary permission to the petitioner-Institution to fill up the vacancies in question long prior to the general ban imposed under the Memo dated 20.10.2004.

Accordingly, the writ petition is disposed of with a direction to the respondents to consider the request of the petitioner to permit it to take further steps to fill up the three vacancies in question notwithstanding the ban imposed under the Memo dated 20.10.2004. No costs.

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17.02.2005

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To

1. The Secretary, State of Andhra Pradesh, School
Education, Secretariat Buildings, Hyderabad.
2. The Commissioner & Director of School Education, A.P.
Saifabad, Hyderabad.
3. The Regional Joint Director of School Education, at Kakinada.
4. The District Educational Officer, Krishna District at

Machilipatnam.

5. Two C.Cs to the G.P. for School Education, High Court Buildings, Hyderabad.

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